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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/645,691	08/21/2003	Arben Kryeziu	1780.004US1	9290
21186 7590 10/10/2008 SCHWEGMAN, LUNDBERG & WOESSNER, P.A. P.O. BOX 2938 MINNEAPOLIS, MN 55402				
EXAMINER				
HUERTA, ALEXANDER Q				
ART UNIT		PAPER NUMBER		
2427				
MAIL DATE		DELIVERY MODE		
10/10/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/645,691

Applicant(s)

KRYEZIU, ARBEN

Examiner

ALEXANDER Q. HUERTA

Art Unit

2427

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 08 July 2008 has been entered.

Response to Arguments

Applicant's arguments, with regards to claim 1, filed 08 July 2008 have been fully considered but they are not persuasive.

On page 4 of the Applicant's Response, applicants argue that Fristoe does not disclose the limitation "selecting a purchasing interface", and Applicant notes that the user is not selecting a purchasing interface but is using a very specific interface to customize the look and feel of the media player and that the interface is predetermined and set.

The Examiner respectfully disagrees with Applicant's arguments because Fristoe teaches the customization of a player allowing the user (e-tailer) to choose the skins, logos, background colors/styles, and e-tailer modifiable tracks [Col. 8 lines 46-55, Col. 11 lines 7-24]. The player is not customized only if the user (e-tailer) does not provide their preferences. The fact that the user (e-tailer) can customize the appearance of the

player allows the user to “select a purchasing system interface” that is consistent with their preference of appearance.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Fristoe et al.** (United States Patent **7,178,161**) in view of **Wiser et al.** (United States Patent **6,385,596**), herein referenced as **Fristoe** and **Wiser**, respectively.

Regarding **claim 1**, **Fristoe** discloses “selecting a purchasing system interface for use with a media stream, wherein the purchasing system interface is selected in response to a recipient’ selection when the recipient is presented with available purchasing system interfaces or in response to a preference previously recorded for the recipient that identifies the purchasing system” [Col. 3 lines 29-42, Col. 8 lines 46-55, Col. 11 lines 7-24, i.e. **Fristoe** teaches that the user (e-tailer) has predetermined profile that identifies the player’s button style, logo, and background colors, which therefore meets the limitation “preference previously recorded for the recipient that identifies the purchasing system”];

“packaging the media stream with a self loading and self executing media player and with configuration information for presenting the purchasing system interface with

the media stream..." [Col. 5 line 63-Col. 6 line3, Col. 7 lines 27-31]. In addition, Merriam-Webster's dictionary defines "package" as being a ready-made computer program or a collection of related software, one of ordinary skill would recognize that a media stream and a media player are a package of related software, which therefore meets the limitation.

"streaming the media stream to a recipient, wherein the media player self-loads and self-executes on the recipient's computing device and configures itself for execution on the recipients computing device using the configuration information, and wherein the media player self-loads when all the media player is received on the recipients computing device and while the media stream is still being received on the recipients computing device" [Col. 7 lines 17-40].

Fristoe fails to disclose "monitoring the usage of the media stream and purchasing system interface".

Wiser discloses "monitoring the usage of the media stream and purchasing system interface" [Col. 11 lines 46-57]. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Fristoe by specifically providing the monitoring of the usage of the media stream and purchasing system interface, as taught by Wiser, for the purpose of royalty payments and other fees to artists [Col. 11 lines 53-57].

Regarding **claim 2**, Fristoe discloses "playing a portion of the media stream on a computing device of the recipient by using the media player, wherein media content included within the media stream is simultaneously presented on a display with the

purchasing system interface and the purchasing system interface can be independently interacted with via the display" [Fig. 8A-8C, Col. 9 lines 21-26].

Regarding **claim 3**, Fristoe discloses "receiving purchasing selections from the recipient accessing a number of options from the purchasing system interface while viewing portions of the media content [Fig. 8A-8C] and using the media player for tracking any purchase that occurs for the media content" [Col. 8 lines 56-64].

Regarding **claim 4**, Fristoe fails to disclose "purchasing selections further includes notifying or recording the purchase for purposes of paying a commission or establishing a budget".

Wiser discloses "purchasing selections further includes notifying or recording the purchase for purposes of paying a commission or establishing a budget" [Col. 11 lines 49-61]. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Fristoe by specifically providing purchasing selections further includes notifying or recording the purchase for purposes of paying a commission or establishing a budget, as taught by Wiser, for the purpose of royalty payments and other fees to artists [Col. 11 lines 53-57].

Regarding **claim 5**, Fristoe discloses "presenting the media content within a first frame of a browser page; and presenting the purchasing system interface within a second frame of the browser page" [Fig. 8A-8C, Col. 9 lines 21-26].

Regarding **claim 6**, Fristoe fails to disclose "receiving usage statistics from the media player identifying playing and purchasing information associated with the

recipient playing media content included within the media stream and interacting with the purchasing system interface”.

Wiser discloses “receiving usage statistics from the media player identifying playing and purchasing information associated with the recipient playing media content included within the media stream and interacting with the purchasing system interface” [Col. 11 lines 46-57]. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Fristoe by specifically providing the receiving of usage statistics from the media player identifying playing and purchasing information associated with the recipient playing media content included within the media stream and interacting with the purchasing system interface, as taught by Wiser, for the purpose of royalty payments and other fees to artists [Col. 11 lines 53-57].

Regarding **claim 7**, Fristoe discloses “packaging further comprises including customized advertisement information with the media stream” [Col. 2 lines 22-31, Col. 7 lines 41-50, i.e. Fristoe teaches that the content viewer displays rich media content/advertising that is customized by the service provider].

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALEXANDER Q. HUERTA whose telephone number is (571) 270-3582. The examiner can normally be reached on M-F(Alternate Fridays Off) 7:30-5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Beliveau can be reached on (571) 272-7343. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Alexander Q Huerta
Examiner
Art Unit 2427

October 2, 2008

/Scott Beliveau/
Supervisory Patent Examiner, Art Unit 2427